

104TH CONGRESS
2D SESSION

S. 1965

AN ACT

To prevent the illegal manufacturing and use of
methamphetamine.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Comprehensive Methamphetamine Control Act of 1996”.

- 1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

Sec. 1. Short title and table of contents.
 Sec. 2. Findings.

TITLE I—IMPORTATION OF METHAMPHETAMINE AND PRECURSOR CHEMICALS

Sec. 101. Support for international efforts to control drugs.
 Sec. 102. Penalties for manufacture of listed chemicals outside the United
 States with intent to import them into the United States.

TITLE II—PROVISIONS TO CONTROL THE MANUFACTURE OF METHAMPHETAMINE

Sec. 201. Seizure and forfeiture of regulated chemicals.
 Sec. 202. Study and report on measures to prevent sales of agents used in
 methamphetamine production.
 Sec. 203. Increased penalties for manufacture and possession of equipment
 used to make controlled substances.
 Sec. 204. Addition of iodine and hydrochloric gas to list II.
 Sec. 205. Civil penalties for firms that supply precursor chemicals.
 Sec. 206. Injunctive relief.
 Sec. 207. Restitution for cleanup of clandestine laboratory sites.
 Sec. 208. Record retention.
 Sec. 209. Technical amendments.
 Sec. 210. Withdrawal of regulations.

TITLE III—INCREASED PENALTIES FOR TRAFFICKING AND MANUFACTURE OF METHAMPHETAMINE AND PRECURSORS

Sec. 301. Penalty increases for trafficking in methamphetamine.
 Sec. 302. Enhanced penalties for offenses involving certain listed chemicals.
 Sec. 303. Enhanced penalty for dangerous handling of controlled substances:
 amendment of sentencing guidelines.

TITLE IV—LEGAL MANUFACTURE, DISTRIBUTION, AND SALE OF PRECURSOR CHEMICALS

Sec. 401. Diversion of certain precursor chemicals.
 Sec. 402. Mail order restrictions.

TITLE V—EDUCATION AND RESEARCH

Sec. 501. Interagency methamphetamine task force.
 Sec. 502. Public health monitoring.
 Sec. 503. Public-private education program.
 Sec. 504. Suspicious orders task force.

3 **SEC. 2. FINDINGS.**

- 4 The Congress finds the following:

1 (1) Methamphetamine is a very dangerous and
2 harmful drug. It is highly addictive and is associated
3 with permanent brain damage in long-term users.

4 (2) The abuse of methamphetamine has in-
5 creased dramatically since 1990. This increased use
6 has led to devastating effects on individuals and the
7 community, including—

8 (A) a dramatic increase in deaths associ-
9 ated with methamphetamine ingestion;

10 (B) an increase in the number of violent
11 crimes associated with methamphetamine inges-
12 tion; and

13 (C) an increase in criminal activity associ-
14 ated with the illegal importation of meth-
15 amphetamine and precursor compounds to sup-
16 port the growing appetite for this drug in the
17 United States.

18 (3) Illegal methamphetamine manufacture and
19 abuse presents an imminent public health threat
20 that warrants aggressive law enforcement action, in-
21 creased research on methamphetamine and other
22 substance abuse, increased coordinated efforts to
23 prevent methamphetamine abuse, and increased
24 monitoring of the public health threat methamphet-

1 amine presents to the communities of the United
2 States.

3 **TITLE I—IMPORTATION OF**
4 **METHAMPHETAMINE AND**
5 **PRECURSOR CHEMICALS**

6 **SEC. 101. SUPPORT FOR INTERNATIONAL EFFORTS TO CON-**
7 **TROL DRUGS.**

8 The Attorney General, in consultation with the Sec-
9 retary of State, shall coordinate international drug en-
10 forcement efforts to decrease the movement of meth-
11 amphetamine and methamphetamine precursors into the
12 United States.

13 **SEC. 102. PENALTIES FOR MANUFACTURE OF LISTED**
14 **CHEMICALS OUTSIDE THE UNITED STATES**
15 **WITH INTENT TO IMPORT THEM INTO THE**
16 **UNITED STATES.**

17 (a) UNLAWFUL IMPORTATION.—Section 1009(a) of
18 the Controlled Substances Import and Export Act (21
19 U.S.C. 959(a)) is amended—

20 (1) in the matter before paragraph (1), by in-
21 serting “or listed chemical” after “schedule I or II”;
22 and

23 (2) in paragraphs (1) and (2), by inserting “or
24 chemical” after “substance”.

1 (b) UNLAWFUL MANUFACTURE OR DISTRIBUTION.—
2 Paragraphs (1) and (2) of section 1009(b) of the Con-
3 trolled Substances Import and Export Act (21 U.S.C.
4 959(b)) are amended by inserting “or listed chemical”
5 after “controlled substance”.

6 (c) PENALTIES.—Section 1010(d) of the Controlled
7 Substances Import and Export Act (21 U.S.C. 960(d)) is
8 amended—

9 (1) in paragraph (5), by striking “or” at the
10 end;

11 (2) in paragraph (6), by striking the comma at
12 the end and inserting “; or”; and

13 (3) by adding at the end the following:

14 “(7) manufactures, possesses with intent to dis-
15 tribute, or distributes a listed chemical in violation
16 of section 959 of this title.”.

17 **TITLE II—PROVISIONS TO CON-**
18 **TROL THE MANUFACTURE OF**
19 **METHAMPHETAMINE**

20 **SEC. 201. SEIZURE AND FORFEITURE OF REGULATED**
21 **CHEMICALS.**

22 (a) PENALTIES FOR SIMPLE POSSESSION.—Section
23 404 of the Controlled Substances Act (21 U.S.C. 844) is
24 amended—

25 (1) in subsection (a)—

1 (A) by adding after the first sentence the
 2 following: “It shall be unlawful for any person
 3 knowingly or intentionally to possess any list I
 4 chemical obtained pursuant to or under author-
 5 ity of a registration issued to that person under
 6 section 303 of this title or section 1008 of title
 7 III if that registration has been revoked or sus-
 8 pended, if that registration has expired, or if
 9 the registrant has ceased to do business in the
 10 manner contemplated by his registration.”; and

11 (B) by striking “drug or narcotic” and in-
 12 serting “drug, narcotic, or chemical” each place
 13 it appears; and

14 (2) in subsection (c), by striking “drug or nar-
 15 cotic” and inserting “drug, narcotic, or chemical”.

16 (b) FORFEITURES.—Section 511(a) of the Controlled
 17 Substances Act (21 U.S.C. 881(a)) is amended—

18 (1) in paragraphs (2) and (6), by inserting “or
 19 listed chemical” after “controlled substance” each
 20 place it appears; and

21 (2) in paragraph (9), by—

22 (A) inserting “dispensed, acquired,” after
 23 “distributed,” both places it appears; and

24 (B) striking “a felony provision of”.

1 (c) SEIZURE.—Section 607 of the Tariff Act of 1930
 2 (19 U.S.C. 1607) is amended—

3 (1) in subsection (a)(3), by inserting “or listed
 4 chemical” after “controlled substance”; and

5 (2) by amending subsection (b) to read as fol-
 6 lows:

7 “(b) As used in this section, the terms ‘controlled
 8 substance’ and ‘listed chemical’ have the meaning given
 9 such terms in section 102 of the Controlled Substances
 10 Act (21 U.S.C. 802).”.

11 **SEC. 202. STUDY AND REPORT ON MEASURES TO PREVENT**
 12 **SALES OF AGENTS USED IN METHAMPHET-**
 13 **AMINE PRODUCTION.**

14 (a) STUDY.—The Attorney General of the United
 15 States shall conduct a study on possible measures to effec-
 16 tively prevent the diversion of red phosphorous, iodine, hy-
 17 drochloric gas, and other agents for use in the production
 18 of methamphetamine. Nothing in this section shall pre-
 19 clude the Attorney General from taking any action the At-
 20 torney General already is authorized to take with regard
 21 to the regulation of listed chemicals under current law.

22 (b) REPORT.—Not later than January 1, 1998, the
 23 Attorney General shall submit a report to the Congress
 24 of its findings pursuant to the study conducted under sub-

1 section (a) on the need for and advisability of preventive
2 measures.

3 (c) CONSIDERATIONS.—In developing recommenda-
4 tions under subsection (b), the Attorney General shall con-
5 sider—

6 (1) the use of red phosphorous, iodine, hydro-
7 chloric gas, and other agents in the illegal manufac-
8 ture of methamphetamine;

9 (2) the use of red phosphorous, iodine, hydro-
10 chloric gas, and other agents for legitimate, legal
11 purposes, and the impact any regulations may have
12 on these legitimate purposes; and

13 (3) comments and recommendations from law
14 enforcement, manufacturers of such chemicals, and
15 the consumers of such chemicals for legitimate, legal
16 purposes.

17 **SEC. 203. INCREASED PENALTIES FOR MANUFACTURE AND**
18 **POSSESSION OF EQUIPMENT USED TO MAKE**
19 **CONTROLLED SUBSTANCES.**

20 (a) IN GENERAL.—Section 403(d) of the Controlled
21 Substances Act (21 U.S.C. 843(d)) is amended—

22 (1) by striking “(d) Any person” and inserting
23 “(d)(1) Except as provided in paragraph (2), any
24 person”; and

25 (2) by adding at the end the following:

1 “(2) Any person who, with the intent to manufacture
2 or to facilitate the manufacture of methamphetamine, vio-
3 lates paragraph (6) or (7) of subsection (a), shall be sen-
4 tenced to a term of imprisonment of not more than 10
5 years, a fine of not more than \$30,000, or both; except
6 that if any person commits such a violation after one or
7 more prior convictions of that person—

8 “(A) for a violation of paragraph (6) or (7) of
9 subsection (a);

10 “(B) for a felony under any other provision of
11 this subchapter or subchapter II of this chapter; or

12 “(C) under any other law of the United States
13 or any State relating to controlled substances or list-
14 ed chemicals,

15 has become final, such person shall be sentenced to a term
16 of imprisonment of not more than 20 years, a fine of not
17 more than \$60,000, or both.”.

18 (b) SENTENCING COMMISSION.—The United States
19 Sentencing Commission shall amend the sentencing guide-
20 lines to ensure that the manufacture of methamphetamine
21 in violation of section 403(d)(2) of the Controlled Sub-
22 stances Act, as added by subsection (a), is treated as a
23 significant violation.

1 **SEC. 204. ADDITION OF IODINE AND HYDROCHLORIC GAS**
2 **TO LIST II.**

3 (a) IN GENERAL.—Section 102(35) of the Controlled
4 Substances Act (21 U.S.C. 802(35)) is amended by adding
5 at the end the following:

6 “(I) Iodine.

7 “(J) Hydrochloric gas.”.

8 (b) IMPORTATION AND EXPORTATION REQUIRE-
9 MENTS.—(1) Iodine shall not be subject to the require-
10 ments for listed chemicals provided in section 1018 of the
11 Controlled Substances Import and Export Act (21 U.S.C.
12 971).

13 (2) EFFECT OF EXCEPTION.—The exception made by
14 paragraph (1) shall not limit the authority of the Attorney
15 General to impose the requirements for listed chemicals
16 provided in section 1018 of the Controlled Substances Im-
17 port and Export Act (21 U.S.C. 971).

18 **SEC. 205. CIVIL PENALTIES FOR FIRMS THAT SUPPLY PRE-**
19 **CURSOR CHEMICALS.**

20 (a) OFFENSES.—Section 402(a) of the Controlled
21 Substances Act (21 U.S.C. 842(a)) is amended—

22 (1) in paragraph (9), by striking “or” after the
23 semicolon;

24 (2) in paragraph (10), by striking the period
25 and inserting “; or”; and

26 (3) by adding at the end the following:

1 “(11) to distribute a laboratory supply to a per-
2 son who uses, or attempts to use, that laboratory
3 supply to manufacture a controlled substance or a
4 listed chemical, in violation of this title or title III,
5 with reckless disregard for the illegal uses to which
6 such a laboratory supply will be put.

7 As used in paragraph (11), the term ‘laboratory supply’
8 means a listed chemical or any chemical, substance, or
9 item on a special surveillance list published by the Attor-
10 ney General, which contains chemicals, products, mate-
11 rials, or equipment used in the manufacture of controlled
12 substances and listed chemicals. For purposes of para-
13 graph (11), there is a rebuttable presumption of reckless
14 disregard at trial if the Attorney General notifies a firm
15 in writing that a laboratory supply sold by the firm, or
16 any other person or firm, has been used by a customer
17 of the notified firm, or distributed further by that cus-
18 tomer, for the unlawful production of controlled sub-
19 stances or listed chemicals a firm distributes and 2 weeks
20 or more after the notification the notified firm distributes
21 a laboratory supply to the customer.”.

22 (b) CIVIL PENALTY.—Section 402(c)(2) of the Con-
23 trolled Substances Act (21 U.S.C. 842(c)(2)) is amended
24 by adding at the end the following:

1 “(C) In addition to the penalties set forth else-
 2 where in this title or title III, any business that vio-
 3 lates paragraph (11) of subsection (a) shall, with re-
 4 spect to the first such violation, be subject to a civil
 5 penalty of not more than \$250,000, but shall not be
 6 subject to criminal penalties under this section, and
 7 shall, for any succeeding violation, be subject to a
 8 civil fine of not more than \$250,000 or double the
 9 last previously imposed penalty, whichever is great-
 10 er.”.

11 **SEC. 206. INJUNCTIVE RELIEF.**

12 (a) TEN-YEAR INJUNCTION MAJOR OFFENSES.—
 13 Section 401(f) of the Controlled Substances Act (21
 14 U.S.C. 841(f)) is amended by—

15 (1) inserting “manufacture, exportation,” after
 16 “distribution,”; and
 17 (2) striking “regulated”.

18 (b) TEN-YEAR INJUNCTION OTHER OFFENSES.—
 19 Section 403 of the Controlled Substances Act (21 U.S.C.
 20 843) is amended—

21 (1) in subsection (e), by—
 22 (A) inserting “manufacture, exportation,”
 23 after “distribution,”; and
 24 (B) striking “regulated”; and
 25 (2) by adding at the end the following:

1 “(f) INJUNCTIONS.—(1) In addition to any penalty
2 provided in this section, the Attorney General is author-
3 ized to commence a civil action for appropriate declaratory
4 or injunctive relief relating to violations of this section or
5 section 402.

6 “(2) Any action under this subsection may be
7 brought in the district court of the United States for the
8 district in which the defendant is located or resides or is
9 doing business.

10 “(3) Any order or judgment issued by the court pur-
11 suant to this subsection shall be tailored to restrain viola-
12 tions of this section or section 402.

13 “(4) The court shall proceed as soon as practicable
14 to the hearing and determination of such an action. An
15 action under this subsection is governed by the Federal
16 Rules of Civil Procedure except that, if an indictment has
17 been returned against the respondent, discovery is gov-
18 erned by the Federal Rules of Criminal Procedure.”.

19 **SEC. 207. RESTITUTION FOR CLEANUP OF CLANDESTINE**
20 **LABORATORY SITES.**

21 Section 413 of the Controlled Substances Act (21
22 U.S.C. 853) is amended by adding at the end the follow-
23 ing:

1 “(q) The court, when sentencing a defendant con-
2 victed of an offense under this title or title III involving
3 the manufacture of methamphetamine, may—

4 “(1) order restitution as provided in sections
5 3612 and 3664 of title 18, United States Code;

6 “(2) order the defendant to reimburse the Unit-
7 ed States for the costs incurred by the United States
8 for the cleanup associated with the manufacture of
9 methamphetamine by the defendant; and

10 “(3) order restitution to any person injured as
11 a result of the offense as provided in section 3663
12 of title 18, United States Code.”.

13 **SEC. 208. RECORD RETENTION.**

14 Section 310(a)(1) of the Controlled Substances Act
15 (21 U.S.C. 830(a)(1)) is amended by striking the dash
16 after “transaction” and subparagraphs (A) and (B) and
17 inserting “for two years after the date of the trans-
18 action.”.

19 **SEC. 209. TECHNICAL AMENDMENTS.**

20 Section 102 of the Controlled Substances Act (21
21 U.S.C. 802) is amended—

22 (1) in paragraph (34), by amending subpara-
23 graphs (P), (S), and (U) to read as follows:

24 “(P) Isosafrole.

25 “(S) N-Methylephedrine.

1 “(U) Hydriodic acid.”; and

2 (2) in paragraph (35), by amending subpara-
3 graph (G) to read as follows:

4 “(G) 2-Butanone (or Methyl Ethyl Ke-
5 tone).”.

6 **SEC. 210. WITHDRAWAL OF REGULATIONS.**

7 The final rule concerning removal of exemption for
8 certain pseudoephedrine products marketed under the
9 Federal Food, Drug, and Cosmetic Act published in the
10 Federal Register of August 7, 1996 (61 FR 40981–
11 40993) is null and void and of no force or effect.

12 **TITLE III—INCREASED PEN-**
13 **ALTIES FOR TRAFFICKING**
14 **AND MANUFACTURE OF**
15 **METHAMPHETAMINE AND**
16 **PRECURSORS**

17 **SEC. 301. PENALTY INCREASES FOR TRAFFICKING IN**
18 **METHAMPHETAMINE.**

19 (a) DIRECTIVE TO THE UNITED STATES SENTENC-
20 ING COMMISSION.—Pursuant to its authority under sec-
21 tion 994 of title 28, United States Code, the United States
22 Sentencing Commission shall review and amend its guide-
23 lines and its policy statements to provide for increased
24 penalties for unlawful manufacturing, importing, export-
25 ing, and trafficking of methamphetamine, and other simi-

1 lar offenses, including unlawful possession with intent to
2 commit any of those offenses, and attempt and conspiracy
3 to commit any of those offenses. The Commission shall
4 submit to Congress explanations therefor and any addi-
5 tional policy recommendations for combating methamphet-
6 amine offenses.

7 (b) IN GENERAL.—In carrying out this section, the
8 Commission shall ensure that the sentencing guidelines
9 and policy statements for offenders convicted of offenses
10 described in subsection (a) and any recommendations sub-
11 mitted under such subsection reflect the heinous nature
12 of such offenses, the need for aggressive law enforcement
13 action to fight such offenses, and the extreme dangers as-
14 sociated with unlawful activity involving methamphet-
15 amine, including—

16 (1) the rapidly growing incidence of meth-
17 amphetamine abuse and the threat to public safety
18 such abuse poses;

19 (2) the high risk of methamphetamine addic-
20 tion;

21 (3) the increased risk of violence associated
22 with methamphetamine trafficking and abuse; and

23 (4) the recent increase in the illegal importation
24 of methamphetamine and precursor chemicals.

1 **SEC. 302. ENHANCED PENALTIES FOR OFFENSES INVOLV-**
2 **ING CERTAIN LISTED CHEMICALS.**

3 (a) CONTROLLED SUBSTANCES ACT.—Section
4 401(d) of the Controlled Substances Act (21 U.S.C.
5 841(d)) is amended by striking “not more than 10 years,”
6 and inserting “not more than 20 years in the case of a
7 violation of paragraph (1) or (2) involving a list I chemical
8 or not more than 10 years in the case of a violation of
9 this subsection other than a violation of paragraph (1) or
10 (2) involving a list I chemical,”.

11 (b) CONTROLLED SUBSTANCE IMPORT AND EXPORT
12 ACT.—Section 1010(d) of the Controlled Substance Im-
13 port and Export Act (21 U.S.C. 960(d)) is amended by
14 striking “not more than 10 years,” and inserting “not
15 more than 20 years in the case of a violation of paragraph
16 (1) or (3) involving a list I chemical or not more than
17 10 years in the case of a violation of this subsection other
18 than a violation of paragraph (1) or (3) involving a list
19 I chemical,”.

20 (c) SENTENCING GUIDELINES.—

21 (1) IN GENERAL.—The United States Sentenc-
22 ing Commission shall, in accordance with the proce-
23 dures set forth in section 21(a) of the Sentencing
24 Act of 1987, as though the authority of that section
25 had not expired, amend the sentencing guidelines to

1 increase by at least two levels the offense level for
 2 offenses involving list I chemicals under—

3 (A) section 401(d) (1) and (2) of the Con-
 4 trolled Substances Act (21 U.S.C 841(d) (1)
 5 and (2)); and

6 (B) section 1010(d) (1) and (3) of the
 7 Controlled Substance Import and Export Act
 8 (21 U.S.C. 960(d) (1) and (3)).

9 (2) REQUIREMENT.—In carrying out this sub-
 10 section, the Commission shall ensure that the of-
 11 fense levels for offenses referred to in paragraph (1)
 12 are calculated proportionally on the basis of the
 13 quantity of controlled substance that reasonably
 14 could have been manufactured in a clandestine set-
 15 ting using the quantity of the list I chemical pos-
 16 sessed, distributed, imported, or exported.

17 **SEC. 303. ENHANCED PENALTY FOR DANGEROUS HAN-**
 18 **DLING OF CONTROLLED SUBSTANCES:**
 19 **AMENDMENT OF SENTENCING GUIDELINES.**

20 (a) IN GENERAL.—Pursuant to its authority under
 21 section 994 of title 28, United States Code, the United
 22 States Sentencing Commission shall determine whether
 23 the Sentencing Guidelines adequately punish the offenses
 24 described in subsection (b) and, if not, promulgate guide-
 25 lines or amend existing guidelines to provide an appro-

1 puate enhancement of the punishment for a defendant
2 convicted of such an offense.

3 (b) OFFENSE.—The offense referred to in subsection
4 (a) is a violation of section 401(d), 401(g)(1), 403(a)(6),
5 or 403(a)(7) of The Controlled Substances Act (21 U.S.C.
6 841(d), 841(g)(1), 843(a)(6), and 843(a)(7)), in cases in
7 which in the commission of the offense the defendant vio-
8 lated—

9 (1) subsection (d) or (e) of section 3008 of the
10 Solid Waste Disposal Act (relating to handling haz-
11 ardous waste in a manner inconsistent with Federal
12 or applicable State law);

13 (2) section 103(b) of the Comprehensive Envi-
14 ronmental Response, Compensation and Liability
15 Act (relating to failure to notify as to the release of
16 a reportable quantity of a hazardous substance into
17 the environment);

18 (3) section 301(a), 307(d), 309(c)(2),
19 309(c)(3), 311(b)(3), or 311(b)(5) of the Federal
20 Water Pollution Control Act (relating to the unlaw-
21 ful discharge of pollutants or hazardous substances,
22 the operation of a source in violation of a
23 pretreatment standard, and the failure to notify as
24 to the release of a reportable quantity of a hazard-
25 ous substance into the water); or

1 (4) section 5124 of title 49, United States Code
2 (relating to violations of laws and regulations en-
3 forced by the Department of Transportation with re-
4 spect to the transportation of hazardous material).

5 **TITLE IV—LEGAL MANUFAC-**
6 **TURE, DISTRIBUTION, AND**
7 **SALE OF PRECURSOR CHEMI-**
8 **CALS**

9 **SEC. 401. DIVERSION OF CERTAIN PRECURSOR CHEMI-**
10 **CALS.**

11 (a) IN GENERAL.—Section 102(39) of the Controlled
12 Substances Act (21 U.S.C. 802(39)) is amended—

13 (1) in subparagraph (A)(iv)(I)(aa), by striking
14 “as” through the semicolon and inserting
15 “, pseudoephedrine or its salts, optical isomers, or
16 salts of optical isomers, or phenylpropanolamine or
17 its salts, optical isomers, or salts of optical isomers
18 unless otherwise provided by regulation of the Attor-
19 ney General issued pursuant to section 204(e) of
20 this title;”; and

21 (2) in subparagraph (A)(iv)(II), by inserting
22 “, pseudoephedrine, phenylpropanolamine,” after
23 “ephedrine”.

24 (b) LEGITIMATE RETAILERS.—Section 102 of the
25 Controlled Substances Act (21 U.S.C. 802) is amended—

1 (1) in paragraph (39)(A)(iv)(I)(aa), by adding
2 before the semicolon the following: “, except that
3 any sale of ordinary over-the-counter
4 pseudoephedrine or phenylpropanolamine products
5 by retail distributors shall not be a regulated trans-
6 action (except as provided in section 401(d) of the
7 Comprehensive Methamphetamine Control Act of
8 1996)”;

9 (2) in paragraph (39)(A)(iv)(II), by adding be-
10 fore the semicolon the following: “, except that the
11 threshold for any sale of products containing
12 pseudoephedrine or phenylpropanolamine products
13 by retail distributors or by distributors required to
14 submit reports by section 310(b)(3) of this title shall
15 be 24 grams of pseudoephedrine or 24 grams of
16 phenylpropanolamine in a single transaction”;

17 (3) by redesignating paragraph (43) relating to
18 felony drug offense as paragraph (44); and

19 (4) by adding at the end the following:

20 “(45) The term ‘ordinary over-the-counter
21 pseudoephedrine or phenylpropanolamine product’
22 means any product containing pseudoephedrine or
23 phenylpropanolamine that is—

24 “(A) regulated pursuant to this title; and

1 “(B)(i) except for liquids, sold in package
2 sizes of not more than 3.0 grams of
3 pseudoephedrine base or 3.0 grams of phenyl-
4 propanolamine base, and that is packaged in
5 blister packs, each blister containing not more
6 than two dosage units, or where the use of blis-
7 ter packs is technically infeasible, that is
8 packaged in unit dose packets or pouches; and

9 “(ii) for liquids, sold in package sizes of
10 not more than 3.0 grams of pseudoephedrine
11 base or 3.0 grams of phenylpropanolamine base.

12 “(46)(A) The term ‘retail distributor’ means a
13 grocery store, general merchandise store, drug store,
14 or other entity or person whose activities as a dis-
15 tributor relating to pseudoephedrine or phenyl-
16 propanolamine products are limited almost exclu-
17 sively to sales for personal use, both in number of
18 sales and volume of sales, either directly to walk-in
19 customers or in face-to-face transactions by direct
20 sales.

21 “(B) For purposes of this paragraph, sale for
22 personal use means the sale of below-threshold quan-
23 tities in a single transaction to an individual for le-
24 gitimate medical use.

1 “(C) For purposes of this paragraph, entities
2 are defined by reference to the Standard Industrial
3 Classification (SIC) code, as follows:

4 “(i) A grocery store is an entity within SIC
5 code 5411.

6 “(ii) A general merchandise store is an en-
7 tity within SIC codes 5300 through 5399 and
8 5499.

9 “(iii) A drug store is an entity within SIC
10 code 5912.”.

11 (c) REINSTATEMENT OF LEGAL DRUG EXEMP-
12 TION.—Section 204 of the Controlled Substances Act (21
13 U.S.C. 814) is amended by adding at the end the following
14 new subsection:

15 “(e) REINSTATEMENT OF EXEMPTION WITH RE-
16 SPECT TO EPHEDRINE, PSEUDOEPHEDRINE, AND PHEN-
17 YLPROPANOLAMINE DRUG PRODUCTS.—Pursuant to sub-
18 section (d)(1), the Attorney General shall by regulation
19 reinstate the exemption with respect to a particular ephed-
20 rine, pseudoephedrine, or phenylpropanolamine drug prod-
21 uct if the Attorney General determines that the drug prod-
22 uct is manufactured and distributed in a manner that pre-
23 vents diversion. In making this determination the Attorney
24 General shall consider the factors listed in subsection
25 (d)(2). Any regulation issued pursuant to this subsection

1 may be amended or revoked based on the factors listed
2 in subsection (d)(4).”.

3 (d) REGULATION OF RETAIL SALES.—

4 (1) PSEUDOEPHEDRINE.—

5 (A) LIMIT.—

6 (i) IN GENERAL.—Not sooner than
7 the effective date of this section and sub-
8 ject to the requirements of clause (ii), the
9 Attorney General may establish by regula-
10 tion a single-transaction limit of 24 grams
11 of pseudoephedrine base for retail distribu-
12 tors. Notwithstanding any other provision
13 of law, the single-transaction threshold
14 quantity for pseudoephedrine-containing
15 compounds may not be lowered beyond
16 that established in this paragraph.

17 (ii) CONDITIONS.—In order to estab-
18 lish a single-transaction limit of 24 grams
19 of pseudoephedrine base, the Attorney
20 General shall establish, following notice,
21 comment, and an informal hearing that
22 since the date of enactment of this Act
23 there are a significant number of instances
24 where ordinary over-the-counter
25 pseudoephedrine products as established in

1 paragraph (45) of section 102 of the Con-
2 trolled Substances Act (21 U.S.C. 802
3 (45)), as added by this Act, sold by retail
4 distributors as established in paragraph
5 (46) in section 102 of the Controlled Sub-
6 stances Act (21 U.S.C. 802(46)), are being
7 widely used as a significant source of pre-
8 cursor chemicals for illegal manufacture of
9 a controlled substance for distribution or
10 sale.

11 (B) VIOLATION.—Any individual or busi-
12 ness that violates the thresholds established in
13 this paragraph shall, with respect to the first
14 such violation, receive a warning letter from the
15 Attorney General and, if a business, the busi-
16 ness shall be required to conduct mandatory
17 education of the sales employees of the firm
18 with regard to the legal sales of
19 pseudoephedrine. For a second violation occur-
20 ring within 2 years of the first violation, the
21 business or individual shall be subject to a civil
22 penalty of not more than \$5,000. For any sub-
23 sequent violation occurring within 2 years of
24 the previous violation, the business or individual
25 shall be subject to a civil penalty not to exceed

1 the amount of the previous civil penalty plus
2 \$5,000.

3 (2) PHENYLPROPANOLAMINE.—

4 (A) LIMIT.—

5 (i) IN GENERAL.—Not sooner than
6 the effective date of this section and sub-
7 ject to the requirements of clause (ii), the
8 Attorney General may establish by regula-
9 tion a single-transaction limit of 24 grams
10 of phenylpropanolamine base for retail dis-
11 tributors. Notwithstanding any other provi-
12 sion of law, the single-transaction thresh-
13 old quantity for phenylpropanolamine-con-
14 taining compounds may not be lowered be-
15 yond that established in this paragraph.

16 (ii) CONDITIONS.—In order to estab-
17 lish a single-transaction limit of 24 grams
18 of phenylpropanolamine base, the Attorney
19 General shall establish, following notice,
20 comment, and an informal hearing, that
21 since the date of enactment of this Act
22 there are a significant number of instances
23 where ordinary over-the-counter phenyl-
24 propanolamine products as established in
25 paragraph (45) of section 102 of the Con-

1 trolled Substances Act (21 U.S.C.
2 802(45)), as added by this Act, sold by re-
3 tail distributors as established in para-
4 graph (46) in section 102 of the Controlled
5 Substances Act (21 U.S.C. 802(46)), are
6 being used as a significant source of pre-
7 cursor chemicals for illegal manufacture of
8 a controlled substance in bulk.

9 (B) VIOLATION.—Any individual or busi-
10 ness that violates the thresholds established in
11 this paragraph shall, with respect to the first
12 such violation, receive a warning letter from the
13 Attorney General and, if a business, the busi-
14 ness shall be required to conduct mandatory
15 education of the sales employees of the firm
16 with regard to the legal sales of
17 pseudoephedrine. For a second violation occur-
18 ring within 2 years of the first violation, the
19 business or individual shall be subject to a civil
20 penalty of not more than \$5,000. For any sub-
21 sequent violation occurring within 2 years of
22 the previous violation, the business or individual
23 shall be subject to a civil penalty not to exceed
24 the amount of the previous civil penalty plus
25 \$5,000.

1 (3) SIGNIFICANT NUMBER OF INSTANCES.—

2 (A) IN GENERAL.—For purposes of this
3 subsection, isolated or infrequent use, or use in
4 insubstantial quantities, of ordinary over-the-
5 counter pseudoephedrine or phenylpropanola-
6 mine, as defined in section 102(45) of the Con-
7 trolled Substances Act, as added by section
8 401(b) of this Act, and sold at the retail level
9 for the illicit manufacture of methamphetamine
10 or amphetamine may not be used by the Attor-
11 ney General as the basis for establishing the
12 conditions under paragraph (1)(A)(ii) of this
13 subsection, with respect to pseudoephedrine,
14 and paragraph (2)(A)(ii) of this subsection,
15 with respect to phenylpropanolamine.

16 (B) CONSIDERATIONS AND REPORT.—The
17 Attorney General shall—

18 (i) in establishing a finding under
19 paragraph (1)(A)(ii) or (2)(A)(ii) of this
20 subsection, consult with the Secretary of
21 Health and Human Services in order to
22 consider the effects on public health that
23 would occur from the establishment of new
24 single transaction limits as provided in
25 such paragraph; and

1 (ii) upon establishing a finding, trans-
2 mit a report to the Committees on the Ju-
3 diciary in both, respectively, the House of
4 Representatives and the Senate in which
5 the Attorney General will provide the fac-
6 tual basis for establishing the new single
7 transaction limits.

8 (4) DEFINITION OF BUSINESS.—For purposes
9 of this subsection, the term “business” means the
10 entity that makes the direct sale and does not in-
11 clude the parent company of a business not involved
12 in a direct sale regulated by this subsection.

13 (5) JUDICIAL REVIEW.—Any regulation promul-
14 gated by the Attorney General under this section
15 shall be subject to judicial review pursuant to section
16 507 of the Controlled Substances Act (21 U.S.C.
17 877).

18 (e) EFFECT ON THRESHOLDS.—Nothing in the
19 amendments made by subsection (b) or the provisions of
20 subsection (d) shall affect the authority of the Attorney
21 General to modify thresholds (including cumulative
22 thresholds) for retail distributors for products other than
23 ordinary over-the-counter pseudoephedrine or phenyl-
24 propanolamine products (as defined in section 102(45) of

1 the Controlled Substances Act, as added by this section)
2 or for non-retail distributors, importers, or exporters.

3 (f) COMBINATION EPHEDRINE PRODUCTS.—

4 (1) IN GENERAL.—For the purposes of this sec-
5 tion, combination ephedrine products shall be treat-
6 ed the same as pseudoephedrine products, except
7 that—

8 (A) a single transaction limit of 24 grams
9 shall be effective as of the date of enactment of
10 this Act and shall apply to sales of all combina-
11 tion ephedrine products, notwithstanding the
12 form in which those products are packaged,
13 made by retail distributors or distributors re-
14 quired to submit a report under section
15 310(b)(3) of the Controlled Substances Act (as
16 added by section 402 of this Act);

17 (B) for regulated transactions for combina-
18 tion ephedrine products other than sales de-
19 scribed in subparagraph (A), the transaction
20 limit shall be—

21 (i) 1 kilogram of ephedrine base, ef-
22 fective on the date of enactment of this
23 Act; or

24 (ii) a threshold other than the thresh-
25 old described in clause (i), if established by

1 the Attorney General not earlier than 1
2 year after the date of enactment of this
3 Act; and

4 (C) the penalties provided in subsection
5 (d)(1)(B) of this section shall take effect on the
6 date of enactment of this Act for any individual
7 or business that violates the single transaction
8 limit of 24 grams for combination ephedrine
9 products.

10 (2) DEFINITION.—For the purposes of this sec-
11 tion, the term “combination ephedrine product”
12 means a drug product containing ephedrine or its
13 salts, optical isomers, or salts of optical isomers and
14 therapeutically significant quantities of another ac-
15 tive medicinal ingredient.

16 (g) EFFECTIVE DATE OF THIS SECTION.—Notwith-
17 standing any other provision of this Act, this section shall
18 not apply to the sale of any pseudoephedrine or phenyl-
19 propanolamine product prior to 12 months after the date
20 of enactment of this Act, except that, on application of
21 a manufacturer of a particular pseudoephedrine or phenyl-
22 propanolamine drug product, the Attorney General may,
23 in her sole discretion, extend such effective date up to an
24 additional six months. Notwithstanding any other provi-

1 sion of law, the decision of the Attorney General on such
2 an application shall not be subject to judicial review.

3 **SEC. 402. MAIL ORDER RESTRICTIONS.**

4 Section 310(b) of the Controlled Substances Act (21
5 U.S.C. 830(b)) is amended by adding at the end the fol-
6 lowing:

7 “(3) MAIL ORDER REPORTING.—(A) Each regu-
8 lated person who engages in a transaction with a
9 nonregulated person which—

10 “(i) involves ephedrine, pseudoephedrine,
11 or phenylpropanolamine (including drug prod-
12 ucts containing these chemicals); and

13 “(ii) uses or attempts to use the Postal
14 Service or any private or commercial carrier;
15 shall, on a monthly basis, submit a report of each
16 such transaction conducted during the previous
17 month to the Attorney General in such form, con-
18 taining such data, and at such times as the Attorney
19 General shall establish by regulation.

20 “(B) The data required for such reports shall
21 include—

22 “(i) the name of the purchaser;

23 “(ii) the quantity and form of the ephed-
24 rine, pseudoephedrine, or phenylpropanolamine
25 purchased; and

1 “(iii) the address to which such ephedrine,
 2 pseudoephedrine, or phenylpropanolamine was
 3 sent.”.

4 **TITLE V—EDUCATION AND** 5 **RESEARCH**

6 **SEC. 501. INTERAGENCY METHAMPHETAMINE TASK FORCE.**

7 (a) ESTABLISHMENT.—There is established a “Meth-
 8 amphetamine Interagency Task Force” (referred to as the
 9 “interagency task force”) which shall consist of the follow-
 10 ing members:

11 (1) The Attorney General, or a designee, who
 12 shall serve as chair.

13 (2) 2 representatives selected by the Attorney
 14 General.

15 (3) The Secretary of Education or a designee.

16 (4) The Secretary of Health and Human Serv-
 17 ices or a designee.

18 (5) 2 representatives of State and local law en-
 19 forcement and regulatory agencies, to be selected by
 20 the Attorney General.

21 (6) 2 representatives selected by the Secretary
 22 of Health and Human Services.

23 (7) 5 nongovernmental experts in drug abuse
 24 prevention and treatment to be selected by the At-
 25 torney General.

1 (b) RESPONSIBILITIES.—The interagency task force
2 shall be responsible for designing, implementing, and eval-
3 uating the education and prevention and treatment prac-
4 tices and strategies of the Federal Government with re-
5 spect to methamphetamine and other synthetic stimulants.

6 (c) MEETINGS.—The interagency task force shall
7 meet at least once every 6 months.

8 (d) FUNDING.—The administrative expenses of the
9 interagency task force shall be paid out of existing Depart-
10 ment of Justice appropriations.

11 (e) FACA.—The Federal Advisory Committee Act (5
12 U.S.C. App. 2) shall apply to the interagency task force.

13 (f) TERMINATION.—The interagency task force shall
14 terminate 4 years after the date of enactment of this Act.

15 **SEC. 502. PUBLIC HEALTH MONITORING.**

16 The Secretary of Health and Human Services shall
17 develop a public health monitoring program to monitor
18 methamphetamine abuse in the United States. The pro-
19 gram shall include the collection and dissemination of data
20 related to methamphetamine abuse which can be used by
21 public health officials in policy development.

22 **SEC. 503. PUBLIC-PRIVATE EDUCATION PROGRAM.**

23 (a) ADVISORY PANEL.—The Attorney General shall
24 establish an advisory panel consisting of an appropriate
25 number of representatives from Federal, State, and local

1 law enforcement and regulatory agencies with experience
2 in investigating and prosecuting illegal transactions of
3 precursor chemicals. The Attorney General shall convene
4 the panel as often as necessary to develop and coordinate
5 educational programs for wholesale and retail distributors
6 of precursor chemicals and supplies.

7 (b) CONTINUATION OF CURRENT EFFORTS.—The
8 Attorney General shall continue to—

9 (1) maintain an active program of seminars and
10 training to educate wholesale and retail distributors
11 of precursor chemicals and supplies regarding the
12 identification of suspicious transactions and their re-
13 sponsibility to report such transactions; and

14 (2) provide assistance to State and local law en-
15 forcement and regulatory agencies to facilitate the
16 establishment and maintenance of educational pro-
17 grams for distributors of precursor chemicals and
18 supplies.

19 **SEC. 504. SUSPICIOUS ORDERS TASK FORCE.**

20 (a) IN GENERAL.—The Attorney General shall estab-
21 lish a “Suspicious Orders Task Force” (the “Task
22 Force”) which shall consist of—

23 (1) appropriate personnel from the Drug En-
24 forcement Administration (the “DEA”) and other
25 Federal, State, and local law enforcement and regu-

1 latory agencies with the experience in investigating
2 and prosecuting illegal transactions of listed chemi-
3 cals and supplies; and

4 (2) representatives from the chemical and phar-
5 maceutical industry.

6 (b) RESPONSIBILITIES.—The Task Force shall be re-
7 sponsible for developing proposals to define suspicious or-
8 ders of listed chemicals, and particularly to develop quan-
9 tifiable parameters which can be used by registrants in
10 determining if an order is a suspicious order which must
11 be reported to DEA. The quantifiable parameters to be
12 addressed will include frequency of orders, deviations from
13 prior orders, and size of orders. The Task Force shall also
14 recommend provisions as to what types of payment prac-
15 tices or unusual business practices shall constitute prima
16 facie suspicious orders. In evaluating the proposals, the
17 Task Force shall consider effectiveness, cost and feasibil-
18 ity for industry and government, and other relevant factors.

19 (c) MEETINGS.—The Task Force shall meet at least
20 two times per year and at such other times as may be
21 determined necessary by the Task Force.

22 (d) REPORT.—The Task Force shall present a report
23 to the Attorney General on its proposals with regard to
24 suspicious orders and the electronic reporting of sus-
25 picious orders within one year of the date of enactment

1 of this Act. Copies of the report shall be forwarded to the
2 Committees of the Senate and House of Representatives
3 having jurisdiction over the regulation of listed chemical
4 and controlled substances.

5 (e) FUNDING.—The administrative expenses of the
6 Task Force shall be paid out of existing Department of
7 Justice funds or appropriations.

8 (f) FACA.—The Federal Advisory Committee Act (5
9 U.S.C. App. 2) shall apply to the Task Force.

10 (g) TERMINATION.—The Task Force shall terminate
11 upon presentation of its report to the Attorney General,
12 or two years after the date of enactment of this Act,
13 whichever is sooner.

Passed the Senate September 17, 1996.

Attest:

Secretary.

104TH CONGRESS
2D Session

S. 1965

AN ACT

To prevent the illegal manufacturing and use of
methamphetamine.